

# HONDURAS

## Still waiting for justice

### Introduction

Until now not one person has been tried by a court of justice to answer for the fate of any of the 184<sup>1</sup> men, women and children listed as “disappeared” in Honduras between 1980 and 1992 in the 1993 report - *The Facts Speak for Themselves* - by the National Commissioner for the Protection of Human Rights

Efforts to bring to justice those responsible for human rights violations in the 1980s in Honduras have yet to result in full trials or convictions. The election of Carlos Roberto Reina as President in 1993 created great expectations among human rights activists, victims and their families; he was perceived as a strong defender of human rights and had promised to put an end to impunity. President Reina has now ended his term in office, but impunity persists.

Although civilian authorities have taken some initiatives to prosecute human rights violators, their efforts have been hindered by the refusal of the military to have members of their forces submit themselves to judicial authorities for trial. In 1995 charges were filed against ten army officers for attempted murder and unlawful detention in the case of the “temporary disappearance” of six students in 1982. The students were also subjected to torture during their detention. This was the first time judicial proceedings were initiated against military personnel for human rights violations. Later, arrest warrants were issued against some of them but, instead of complying with the judicial order, they went into hiding; several are still living in clandestinity. Further charges for other “disappearances” were made at a later date against military personnel, including some of those already facing previous charges. However, judicial proceeding against them have been impeded all along by the fact that they remain at large. Furthermore, the defendants claim that they should benefit from amnesty laws approved between 1987 and 1991.

On 22 February 1998 the First Criminal Court in Tegucigalpa ruled in favour of applying amnesty laws to a member of the Armed Forces charged with human rights violations committed in the 1980s. Amnesty International and local human rights organizations believe that the amnesty laws do not apply to those accused of human rights violations because they lead to impunity and argue that the state has the obligation to investigate, prosecute and punish those responsible for such abuses and guarantee the right to compensation of victims, families and dependants. Amnesty International further believes that the application of amnesty laws in these cases is incompatible with Honduras’ international human rights obligations.

### ❑ “Disappeared” identified after exhumations - still no official action to ensure justice

Between 1994 and 1995 the remains of 16 people were exhumed in different places in Honduras. Five were positively identified as those of people who had “disappeared” in the 1980s: Adán Avilés Fúnez, José Amado Espinoza Paz, Gustavo Morales Fúnez, Estanislao Madariaga Linares and Hans Albert Madison López. Remains found next to those identified as Gustavo Morales’,

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<sup>1</sup> This figure was later revised to 179 as five cases were found to have been repeated

originally believed to be those of Rolando Vindel (see below), were not in the end positively identified. There have been no official steps taken to bring to justice those responsible for their deaths but local human rights organizations have filed charges before the courts in some of these cases, as described below.

### ■ Gustavo Adolfo Morales Fúnez and Rolando Vindel González

On 23 January 1998 CODEH filed a complaint<sup>2</sup>, before the First Criminal Court in Francisco Morazán, for the “disappearance” of some 20 people detained by the Armed Forces of Honduras between July 1983 and September 1984, among them Gustavo Morales and Rolando Vindel, against the former head of the armed forces Walter López Reyes, Colonel Angel Ricardo Luque Portillo and Major Oscar Ramón Hernández Chávez. CODEH filed charges of treason, failing to fulfil the duties inherent to their posts, abuse of authority, illegal detention and the kidnapping of Gustavo Adolfo Morales Fúnez, Rolando Vindel González and others<sup>3</sup>, against the defendants.

A copy of a report dated 30 November 1984, submitted by CODEH to the court, reportedly sent by the Commander of the Regional Centre for Military Training<sup>4</sup> to the then head of the Armed Forces Walter López Reyes, included a list of 20 people “... detained ...under investigation”.<sup>5</sup> Among them were Gustavo Morales and Rolando Vindel. The individual entries say that Gustavo Morales was “captured” in Tegucigalpa by the Intelligence Battalion and delivered to CREM on 30 March 1984 by Lieutenant Segundo Flores Murillo. In the case of Rolando Vindel, the date of his arrival to CREM is given as July 1984, that is to say four months after his arrest. He is listed also as having been taken to the unit by Lieutenant Flores.

This information contradicts that contained in a public report prepared by the armed forces in 1985. A special commission of the armed forces, set up by the Joint Chiefs of Staff in March 1984 to investigate 112 cases of “disappearances” submitted by human rights organizations in Honduras, issued its report on 27 March 1985. The nine-page report concluded that the allegations received by the Commission had been vague and contradictory; that it was not possible to determine with certainty that military personnel had been involved in the “disappearances” or that those said to have “disappeared” had been arrested or were in detention in military or police units. Local human rights organizations rejected these conclusions, charged that there had not been a proper inquiry and questioned whether a Commission composed only of armed forces personnel could impartially investigate cases in which the military were accused.

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<sup>2</sup> *denuncia criminal*

<sup>3</sup> *“Delitos de traición, incumplimiento de los deberes de un funcionario, abuso de autoridad, detención ilegal y secuestro”*

<sup>4</sup> *Centro Regional de Entrenamiento Militar (CREM)*

<sup>5</sup> *“... reclusos ... en proceso de investigación”*

**Photographs, see printed version**

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**Gustavo Adolfo Morales Fúnez** “disappeared” in March 1984 after being arrested in Tegucigalpa by several armed men in civilian clothes alleged to be members of the National Directorate of Intelligence (DNI)<sup>6</sup>. His car was intercepted in a busy area of Tegucigalpa, in broad daylight. He was forcibly taken out of his car, which was left with the engine still running; it was later seen in the headquarters of the DNI. There were military and police personnel in the area, guarding the Foreign Ministry and the USA Embassy, but they took no action to prevent the kidnapping and later denied having seen or heard anything.

The victim was 37 years old, married and had three children. He worked for the National Children’s Foundation<sup>7</sup> and was a well known political activist and government critic. His remains were recovered in October 1995 from a grave containing two bodies in Las Trincheras, El Maguelar. A full identification was made by forensic experts through pieces of clothing, a shoe and a dental prosthesis. Also, his driving license, protected by a plastic cover, was found in an inside pocket of his trousers.

**Rolando Vindel** “disappeared” on the same day as Gustavo Morales. He was arrested by two members of the armed forces early in the morning of 18 March 1984 at La Leona Park in Tegucigalpa, not far from the place where Gustavo Morales was arrested. Rolando Vindel was the President of the National Electricity Company’s Trade Union<sup>8</sup> and was negotiating a collective bargaining agreement for the union. He had previously been detained on at least two occasions and tortured. He denounced the torture he had been subjected to in a local newspaper.

Despite petitions of habeas corpus submitted to the courts, a campaign for their release, which included appeals from family and work colleagues to senior civilian and military authorities, the whereabouts of both men remained unknown.

In October 1995, following the exhumation which led to the identification of Gustavo Morales’ remains, it was initially believed that the other remains found were those of Rolando Vindel. However, from the evidence available, including further tests carried out on the remains, it was not possible to make a positive identification of the remains. (For further information on these two cases see AMR 37/01/96, *Honduras, Continued struggle against impunity*)

On 15 February 1997 Gustavo Morales’ remains were taken from Tegucigalpa to Olanchito, his birth place. He was buried in the general cemetery on Sunday 16 February after a mass attended by hundreds of people.

There has been no progress, so far, in the proceedings of the case filed by CODEH for the “disappearance” of Gustavo Morales and Rolando Vindel, among others.

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<sup>6</sup> *Dirección Nacional de Inteligencia*

<sup>7</sup> *Patronato Nacional de la Infancia, PANI*

<sup>8</sup> *Sindicato de Trabajadores de la Empresa Nacional de Energía Eléctrica (STENEE)*

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**■ Adán Avilés Fúnez and José Amado Espinoza Paz**

Adán Avilés Fúnez and José Amado Espinoza Paz (a Nicaraguan citizen), were arrested on 12 June 1982 in Choluteca by agents and officers of the National Directorate of Investigations (DNI), Public Security Force and Immigration Bureau <sup>9</sup>.

In November 1995 the remains of the two men were exhumed in a joint initiative promoted by the Public Ministry and the Committee for the Defence of Human Rights in Honduras (CODEH).<sup>10</sup> The actual exhumation was carried out by the Argentinean Team of Forensic Anthropology. A full identification of the remains of Adán Avilés was achieved through dental evidence and an old injury. The forensic experts also determined he had been shot twice in the chest. In the case of José Amado Espinoza, although the remains were in poor conditions due to deterioration caused by the environment, positive identification was achieved through clothes found with the remains and the genetic analysis of some teeth which were compared with genetic data obtained by testing relatives.

CODEH filed charges of homicide, death threats, illegal arrest, theft and damage to property against 19 members of the armed forces<sup>11</sup> in December 1995 regarding the “disappearance” of Adán Avilés Fúnez and José Amado Espinoza Paz before the First Criminal Court of Choluteca. In June 1996 arrest warrants were issued by the Court against 13 of the accused. Some of them had already been charged in the case of the “temporary disappearance” of six students in 1982 (see below) and were in hiding.

As only one defendant had made himself available to the court, the judge issued a second arrest warrant in September 1996, indicating that senior officers would be legally responsible for failure to present the accused to the court.

In July 1996 Coronel Abén Claros Méndez presented himself to the court in Choluteca; he made a statement before a judge and was granted provisional release six days later after submitting his passport, which he said supported his claim that he was abroad at the time of the “disappearances”, to the court.

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<sup>9</sup> *Dirección Nacional de Investigación; Fuerza de Seguridad Pública; Dirección General de Población y Política Migratoria*

<sup>10</sup> *Comité de Derechos Humanos de Honduras*

<sup>11</sup> *Daniel Balí Castillo, General (r), Coronel Marco Tulio Matute Lagos, Coronel Abén Claros Méndez, Coronel Raymundo Alexander Hernández Santos, Coronel Juan Evangelista López Grijalva, Coronel Manuel Enrique Suárez Benavides, Teniente Coronel Juan Blas Salazar Meza, Teniente Francisco Policarpo Molina Vásquez, Ariel Aguilar Carrasco, Marcelino Ortiz Alvarado, José Elías Aceituno Canaca, Fermín de Jesús Macotto, Juan José Cruz Espinoza, Alexis Ríos, Danilo Rico, José Santos Hernández, Isabel Medina, Ovidio Álvarez Molina, Manuel Antonio Ayala*

Another two of the 19 members of the armed forces charged, former members of the DNI Marcelino Ortiz Alvarado and José Elías Aceituno Canaca appeared before the First Criminal Court of Choluteca on 28 July 1997; they were released for lack of evidence on 1 August 1997. Francisco Policarpo Vásquez Molina, a former traffic police officer, was captured by the Directorate of Criminal Investigation (DIC) in July 1997; he was conditionally released after he presented evidence which he said showed that he was not in Choluteca at the time of the “disappearance” of Adán Avilés Fúnez and José Amado Espinoza Paz.

Colonel Manuel Enrique Suárez Benavides was arrested on 22 August 1997 and was released in November 1997, following a decision of the Appeals Court to revoke the detention order against him.

Colonel Marco Tulio Matute Lagos gave himself up to the court in Choluteca on 3 November 1997. He was released on 30 March 1998 after the Appeals Court ruled that there was no evidence against him.

Proceedings against Fermín de Jesús Macotto, Manuel Antonio Ayala, Diulio Álvarez, Alexis Ríos, Juan José Espinoza and Ariel Aguilar were initiated in December 1995, but have not advanced.

In the cases of Estanislao Madariaga Linares and Hans Albert Madison López, there have been no attempts to find who was responsible for their “disappearances” and bring them to justice.

#### ■ Roger Samuel González Zelaya

On 14 January 1998 CODEH submitted an accusation against the head of the Armed Forces, General Mario Hung Pacheco and two other military officers, to the Second Criminal Court in Tegucigalpa for the “disappearance” of Roger Samuel González Zelaya.

Roger Samuel González Zelaya, a 22-year-old student, former leader of the Federation of Secondary Students, “disappeared” on 19 April 1988 after reportedly being arrested by two men and a woman near the Parque Central in Tegucigalpa. He was allegedly taken to the National Directorate of Investigations and was seen alive in a military centre in May 1988, according to the testimony of a former member of Battalion 3-16 (an armed forces secret intelligence unit) given to the United States Department of Justice, Immigration and Naturalization Service.<sup>12</sup>

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<sup>12</sup> *Deposition of Fausto Ramón Reyes Caballero in Application for Asylum of Inés Elizabeth Castro Escobar, cited in The Facts Speak for Themselves, report by the Commissioner for the Protection of Human Rights in Honduras, 1993*

The accusations made by CODEH were of abuse of authority, illegal arrest and kidnapping against General Hung Pacheco, who was head of the First Battalion of the Special Forces; General Humberto Regalado, then Head of the Armed Forces, now retired; and Colonel Luis Villatoro, head of Battalion 3-16 at the time of the arrest. In turn, the armed forces said they would sue CODEH for libel, arguing that evidence presented by the organization was false.

At the beginning of April 1998, the head of the Armed Forces in Honduras, general Hung Pacheco, requested a court in the country to order the arrest of Ramon Custodio, president of CODEH. The general apparently accused Ramon Custodio of forging documents after the latter showed correspondence to the press in January this year in which the former head of the Armed Forces, general Humberto Regalado, ordered Hung Pacheco in 1988 to hand over a "disappeared" student to a counter-intelligence unit. Previously, in February 1998, a court had rejected a similar request by general Hung Pacheco.

The remains of Roger González have not been found.

#### ■ **Temporary “disappearance” of six students**

In the case of six university students who “disappeared” in 1982 the issue of the application of amnesty laws to members of the armed forces accused of past human rights violations was crucial. The six were arrested on 27 April 1982 by armed men in civilian clothes without an arrest warrant. They were held for several days during which they were tortured and kept blindfolded and without food. Four were released on the fourth day and two were sent to prison and charged with pursuing antisocial and totalitarian activities directed against the democratic and representative government of the State of Honduras. They were released on bail six days after being sent to jail. The case was dismissed by the First Criminal Court and the decision was affirmed by the Appeals Court in December 1983.

In July 1995 ten army officers<sup>13</sup> were charged with attempted murder and unlawful detention, the first time judicial proceedings were initiated against military personnel for human rights violations. Arrest warrants were issued in October 1995 against three of the accused but they went into hiding and are still at large. An arrest warrant was issued in December 1995 for another officer charged in the case who was already in custody on a drug-related conviction.

On 5 January 1996 the Court of Appeals ruled in favour of a submission from the accused that the 1991 Amnesty Law should be applied to them. However, the Supreme Court overturned this decision on 19 January 1996 and ordered the case to be returned to the original court which should decide on the question of the application of the amnesty law. There was no further progress in the proceedings in the case as the accused continued in hiding.

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<sup>13</sup>*Colonel Raymundo Alexander Hernández Santos, Colonel Juan Blas Salazar Meza, Colonel Juan Evangelista López Grijalva, Colonel Julio César Fúnez Álvarez, Captain (r) Billy Fernando Joya Améndola, Major Manuel de Jesús Trejo Rosa, Colonel (r) Amílcar Zelaya Rodríguez, Captain Jorge Antonio Padilla, Major Roberto Arnaldo Erazo Paz. Charges against the tenth accused were later withdrawn; there had been confusion between two officers with the same name where the one who had allegedly participated had died.*

In the case of one of the accused, Colonel Juan Blas Salazar Meza (already in custody serving a five year prison sentence - reduced from 21 years - for a separate drug related conviction), the First Criminal Court ruled on 22 January 1998 on a submission to dismiss from the defence. The judge found that Juan Blas Salazar had been proven guilty of the charges against him but that the amnesty laws had to be applied (because they were “wide-ranging and unconditional”<sup>14</sup>) and no penalties imposed. However, the decision did not apply to the other officers charged in the same case and who were still in hiding.

The Attorney General’s Office filed an appeal against this decision but the Court of Appeals rejected it on 18 February 1998 on a question of procedure rather than substance. The Attorney General filed a further appeal before the Supreme Court which, at the time of writing, had not been decided.

#### ■ “Disappearances” and amnesty laws

Amnesty International was concerned by the decision to allow a member of the armed forces, involved in and charged with serious human rights violations, to benefit from amnesty laws. Such action is incompatible with international human rights obligations accepted by the Honduran government.

States have the duty to investigate human rights violations, to try and punish those responsible and to guarantee the right to reparation of victims, relatives and dependants. This has been reiterated by the UN Human Rights Committee and the Interamerican Commission on Human Rights which have not hesitated to state that amnesty laws are incompatible with human right treaties.

Amnesty International also notes the observation made by the UN Working Group on “disappearances” which, in its report of 12 January 1998, “reminds the [Honduran] Government ... of its responsibilities under article 13 of the Declaration [on Enforced or Involuntary “disappearances”] to conduct thorough and impartial investigations into all cases of “disappearances” for as long as the fate of the victims remains unclarified”.<sup>15</sup>

In allowing military officers charged with human rights violations to benefit from amnesty laws, Honduran authorities are failing not only to fulfil their obligations and, particularly, their duty to guarantee the right to the truth and justice for the victims and their relatives but are also encouraging such serious violations to happen again.

Nearly five years ago, at the UN World Conference on Human Rights, held in Vienna, governments adopted a Declaration and Program of Action urging that “States should abrogate

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<sup>14</sup> *amplia e incondicional*

<sup>15</sup> *[sobre desapariciones], de hacer una investigación exhaustiva e imparcial mientras no se haya aclarado la suerte de la víctima de una desaparición forzada”. ... recordar al Gobierno las obligaciones que le incumben, de conformidad con el artículo 13 de la Declaración*

legislation leading to impunity for those responsible for grave violations of human rights ... and prosecute such violations, thereby providing a firm basis for the rule of law”.

The Honduran authorities should act accordingly and ensure that those responsible for human rights violations are brought before the courts. The authorities would thereby convey to society a clear message that violations of human rights will not be tolerated and that impunity has no place in a country where the rule of law prevails.

### ❑ Other human rights violations pending justice

“Disappearances” are not the only past human rights violations where impunity prevails in Honduras; it has been allowed in respect to other abuses, including extrajudicial executions, as in the following case:

**Miguel Angel Pavón Salazar and Moisés Landaverde** were shot dead in January 1988. Miguel Pavón was an alternate member of the Honduran parliament for the Party of National Innovation and Unity, and president of the San Pedro Sula chapter of CODEH. He was 44 years-old, married with four children and he taught at a technical school.

Moisés Landaverde was 33 years-old, married with two children. He was a secondary school teacher and president of the Regional Committee of the Teachers’ Union. He had been subjected to intense surveillance and harassment by unidentified men in the days before his death .

The attack took place in the evening of 14 January 1988 in San Pedro Sula; the killer was a man in civilian clothes travelling in a motorcycle driven by another man. The victims were shot at close blank range when they were sitting in Miguel Pavón’s car outside Landaverde’s house.

Miguel Angel Pavón had given evidence to the Interamerican Court of Human Rights (ICHR) in October 1987, regarding three “disappearance” cases which took between 1981 and 1984<sup>16</sup>.

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<sup>16</sup> An army sergeant, J Vilorio, who had also appeared as a witness before the ICHR was also murdered in January 1988

In his testimony he reportedly said "... there is sufficient evidence in Honduras to conclude that the President of the Republic and his Ministers, the Supreme Court of Justice and its judges and, of course, the High Military Command, learned of the 'disappearances' with indifference or place complacency"<sup>17</sup> and that legal mechanisms were not guaranteeing the safety of citizens. He also told the court that military and police authorities simply denied the involvement of their members in the human rights violations under investigation. On his return to Honduras he made statements to the press which led to death threats against him.

The Committee for the Constitution and Human Rights of the National Congress was ordered to undertake an immediate and thorough investigation of the killings. The first procedural steps towards an inquiry were taken by the Third Criminal Court of San Pedro Sula, but the investigation did not make much progress. In 1990 the investigation was still open but no conclusive evidence had been uncovered. In later years the inquiry seemed to have been abandoned by judicial authorities.

The Special Prosecutor for Human Rights of the Public Ministry is reported to have reopened the case in early 1994 and to have taken various steps during 1995; for example the Criminal Investigations Directorate (DIC)<sup>18</sup> was purportedly attempting to locate the only witness to the attack; former members of the National Directorate of Intelligence (DNI)<sup>19</sup> were reportedly under investigation. The judicial proceedings however had not made any progress.

In July 1996 the DIC appointed two investigators to work on the case. They interviewed local NGOs, the National Commissioner for Human Rights and the Special Prosecutor for Human Rights and collected information and documents. They produced periodic reports, the final one being in March 1997. Their conclusion was that Sergeant Jaime Rosales and Lt Mario Asdrubal Quiñones Aguilar were responsible for the deaths of Miguel Pavón and Moisés Landaverde. The DIC indicated that the investigation would be followed by legal action. They relied, however, on the cooperation of the Public Security Force and the armed forces in the efforts to locate the two suspects and present them to court.

Further investigations to confirm the veracity of the evidence gathered by the two DIC investigators appeared to ratify the identity of the two suspects who allegedly carried out the killing of the victims. Despite this, the two men had not been formally charged at the time of writing and, according to reports, further inquiries were being made.

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<sup>17</sup> *"En Honduras hay testimonios suficientes para concluir que las desapariciones fueron conocidas con indiferencia o complacencia por parte del Presidente de la República y sus Ministros, la Corte Suprema de Justicia y los jueces y, por supuesto, el Alto Mando Militar"*

<sup>18</sup> *Dirección de Investigación Criminal (DIC)*

<sup>19</sup> *Dirección Nacional de Inteligencia (DNI)*

On the tenth anniversary of the killing of Miguel Pavón and Moisés Landaverde on 14 January 1998, human rights organizations in Honduras paid tribute to them and demanded that the authorities bring to justice those responsible for their death.

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## ❑ General Background

In the general election held in November 1997 to elect a new president and members of the Congress, the Liberal Party retained power. Carlos Alberto Flores Facussé was elected President with 52.8% of the votes cast, against 42.6% for Nora Gunera de Melgar the candidate for the National Party. The new president had been President of the National Congress during the previous four years.

In the National Congress, elected for a four-year period, the 128 seats divided up as follows: 67 for the Liberal Party; 55 for the National Party; three for Innovation and Unity Party (PINU); two for the Christian Democrats (PDCH); one for Democratic Unification (UD)<sup>20</sup>.

In November 1997 Amnesty International wrote an Open Letter to presidential candidates seeking their commitment to protect and promote human rights in Honduras and to ensure their unconditional respect. The main areas of concern highlighted by Amnesty International were:

- the issue of impunity manifested in the failure to bring to justice members of the armed forces charged with past human rights violations, despite the issuing of arrest warrants against them.
- concerns for the security of human rights defenders who were targets of attacks and threats as a result of their work on behalf of victims of human rights violations;
- the impunity enjoyed by those responsible for the deaths of leaders of indigenous groups, at least 25 in the decade - nine of them during 1997.
- on the issue of public security, Amnesty International stressed the need for the police force to be subordinated to constitutional authorities; the need for the training of police personnel to be based on the respect and protection of human dignity and maintenance and defence of human rights for everyone; and the need for administrative investigation and sanctions to correct abuses by police officers, but that these should also be subject to civil justice, where necessary.
- AI urged the candidates, if elected, to reform policies and practices regarding detention conditions to bring them up to levels set by international human rights instruments. Amnesty International also urged the ratification of international standards which Honduras had thus far only signed.

AI was disappointed to note that, to its knowledge, the issue of human rights did not feature in any of the presidential candidates' programme of action nor was it debated during the campaign.

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<sup>20</sup> *Partido Liberal; Partido Nacional; Partido de Innovación y Unidad; Partido Demócrata Cristiano de Honduras; Unificación Democrática*

## □ Conclusion

Amnesty International deeply regrets that the issue of impunity in past cases of “disappearances” and extrajudicial executions was not resolved by the previous government despite promises and commitments made both during the electoral campaign which brought it to power in 1993 and during its years in office.

Amnesty International calls on the new authorities to take steps:

- to put an end to impunity by facilitating the prosecution of those charged with past human rights violations as a matter of urgency;
- to ensure universal respect for human rights in Honduras;
- to consider the concerns expressed in Amnesty International’s open letter sent to all candidates in November 1997 and implement the necessary measures to address them.